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ABSTRACT

The revisions in this document address how state education agencies (SEAs) allocate Title I, Part A funds to local education agencies (LEAs) for school year 1997-98. The changes reflect requirements in the Title I statute and regulations published in the "Federal Register" on July 3, 1995, that take effect for the first time in 1997-98. Guidance concerning how a LEA allocates funds to school attendance areas within the school district is unchanged from that issued earlier by the U.S. Department of Education. This document outlines specific steps in the allocation process and provides examples that illustrate how certain procedures may be carried out. The document contains illustrative but not necessarily exclusive guidance regarding Title I allocation requirements. Answers to 34 commonly asked questions are included. (LMI)

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BASIC PROGRAMS IN LOCAL EDUCATIONAL AGENCIES

State Educational Agency Allocation of Title I Funds to Local Educational Agencies for School Year 1997-98

Local Educational Agency Identification and Selection of School Attendance Areas and Allocation of Title I Funds to those Areas or Schools

Part A of Title I
Elementary and Secondary Education Act of 1965
as amended by the
Improving America's Schools Act of 1994
Public Law 103-382

U.S. DEPARTMENT OF EDUCATION
Office of Elementary and Secondary Education

May 1997

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BASIC PROGRAMS IN LOCAL EDUCATIONAL AGENCIES

State Educational Agency Allocation of Title I Funds to Local Educational Agencies for School Year 1997-98

Local Educational Agency Identification and Selection of School Attendance Areas and Allocation of Title I Funds to Those Areas or Schools

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INTRODUCTION

The revisions in this document address how SEAs allocate Title I, Part A funds to LEAs for school year 1997-98. These changes reflect requirements in the Title I statute and regulations published in the Federal Register on July 3, 1995 that take effect for the first time in 1997-98.

Guidance concerning how an LEA allocates funds to school attendance areas within the school district is unchanged from that issued earlier by ED.

This document outlines specific steps in the allocation process and provides examples illustrating how certain procedures may be carried out. The examples provided should not be regarded as exhaustive or limiting. SEAs and LEAs are free to develop alternative approaches that are consistent with the Title I statute and regulations, but may be more in keeping with their particular needs and circumstances. Therefore, this document contains illustrative but not necessarily exclusive guidance concerning Title I allocation requirements.

SEA ALLOCATION OF TITLE I, PART A FUNDS TO LEAS FOR SCHOOL YEAR 1997-98

STATE ADMINISTRATION
§200.60(a) of Regulations

1. The maximum amount an SEA may reserve from Title I funds for State Administration is the greater of 1 percent of each of the State's allocations for Part A LEA Grants under Section 1002(a) of Title I, Part C Migrant Education program under Section 1002(c), and Part D, Subpart 1 State agency Neglected or Delinquent (N or D) program under Section 1002(d) or $400,000. Note that no funds may be reserved from Capital Expenses under Section 1002(e). Compute the maximum amount an SEA may reserve by multiplying each of the State allocations for Parts A, C, and D, Subpart 1 by 1 percent. Following are examples of how to compute the maximums:

Example I - Maximum of 1 Percent

Program	State Allocation	Maximum Reserve 1 Percent
Part A LEA Grants		
Basic Grants	$88,588,632	$885,886
Concentration Grants	7,285,841	72,859
Part C Migrant Program	472,992	4,730
Part D, Subpart 1 State Agency N or D Program	761,985	7,620
TOTAL	$97,109,450	$971,095

Example II - Maximum of $400,000

Program	State Allocation	1 Percent	Maximum Reserve
Part A LEA Grants			
Basic Grants	$11,350,333	$113,503	
Concentration Grants	544,595	5,446	
Part C Migrant Program	5,743,305	57,433	
Part D, Subpart 1 State Agency N or D Program	170,859	1,709	
TOTAL	$17,809,092	$178,091 [1]	$400,000

[1] One percent is less than $400,000, so SEA may reserve no more than $400,000.

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2. After determining the maximum a State may reserve for State Administration in Step 1, compute the amount up to the maximum that the State will reserve from each of Parts A, C, and D allocations. Following are examples of how to compute the amount from each allocation to be reserved:

Reservation based on 1 percent maximum: The 1 percent maximum applies to each of the four State allocations. If the SEA reserves less than 1 percent, the SEA is not required to reserve proportionate amounts from the State's Parts A, C, and D allocations. However, the amounts reserved from Basic and Concentration Grants must be proportionate (see Example I).

Example I - Maximum of 1 Percent May Be Reserved

		Maximum [1]		Amount Reserved by SEA	
Program	State Allocation	Percent	Amount	Percent [2]	Amount
Part A LEA Grants					
Basic Grants	$88,588,632	1.00	$885,886	1.00	$885,886
Concentration Grants	7,285,841	1.00	72,858	1.00	72,858
Part C Migrant Program	472,992	1.00	4,730	0.95	4,493
Part D, Subpart 1 State Agency N or D Program	761,985	1.00	7,620	0.50	3,810
TOTAL	$97,109,450	1.00	$971,094		$967,047

[1] Maximum amount that SEA may reserve from each State allocation is 1 percent.

[2] Amount reserved may be less but not more than the maximum percentage. An SEA is not required to reserve proportionate amounts from the State allocations under Parts A, C, and D, but the amounts from Basic Grants and Concentration Grants must be proportionate.

Reservation based on $400,000 maximum: In this case the SEA must reserve proportionate amounts from each of the State allocations. To compute the maximum amount that the SEA may reserve from each allocation, divide $400,000 by the total of all four State allocations. The resulting percentage is applied to each of the State allocations to determine the maximum amount that may be reserved from each allocation (see Example II).

Example II - Maximum of $400,000 May Be Reserved

		Maximum [1]		Amount Reserved by SEA	
Program	State Allocation	Percent	Amount	Percent [2]	Amount
Part A LEA Grants					
Basic Grants	$11,350,333	2.25	$254,933	1.97	$223,067
Concentration Grants	544,595	2.25	12,232	1.97	10,703
Part C Migrant Program	5,743,305	2.25	128,997	1.97	112,872
Part D, Subpart 1 State Agency N or D Program	170,859	2.25	3,838	1.97	3,358
TOTAL	$17,809,092	2.25	$400,000	1.97	$350,000

[1] In this example, $400,000 was divided by $17,809,092, which equals 2.25 percent.

[2] In this example, the SEA reserves less than the maximum amount; $350,000 is divided by $17,809,092 to equal 1.97 percent.

SCHOOL IMPROVEMENT
§200.60(b) of Regulations

Congress appropriated no funds for school year 1997-98 in P.L. 104-208 for School Improvement under Section 1002(f) of Title I. An SEA, however, must have at least $200,000 available for school and LEA improvement activities. Therefore, an SEA must reserve from its State allocations for Title I, Part A LEA Grants under Section 1002(a), Part C Migrant Education program under Section 1002(c), and Part D, Subpart 1 State agency N or D program under Section 1002(d) no less that $200,000 to carry out school and LEA improvement activities. An SEA may reserve more than $200,000 provided the amount reserved does not exceed 0.5 percent of each of the State allocations.

1. Compute the maximum amount an SEA may reserve from Title I funds for School Improvement by multiplying each of the State allocations for the above programs by 0.5 percent. If this amount is less than $200,000, the SEA must reserve a higher amount in order to bring total State School Improvement funds up to $200,000 regardless of the percentage that this amount represents of the total State allocations.

   Note that no funds may be reserved from Capital Expenses under Section 1002(e) of Title I.

Example I - 0.5 Percent Is Sufficient to Make $200,000 or More Available for School Improvement

Program (1)	State Allocation (2)	Percent Reserve (3)	Maximum Reserve [1] (4)
Part A LEA Grants			
Basic Grants	$88,588,632	0.5	$442,943
Concentration Grants	7,285,841	0.5	33,429
Part C Migrant Program	472,992	0.5	2,365
Part D, Subpart 1 State Agency N or D Program	761,985	0.5	3,810
TOTAL	$97,109,450		$485,547 [2]

[1] Column (4) is column (2) times column (3).

[2] The SEA may reserve up to $485,547, but not less than $200,000 for School Improvement.

Example II - 0.5 Percent Reserve Is
Not Sufficient to Make $200,000 Available for School Improvement

Program (1)	State Allocation (2)	Percent Reserve (3)	Maximum Reserve [1] (4)
Part A LEA Grants			
Basic Grants	$11,350,333	0.5	$56,752
Concentration Grants	544,595	0.5	2,723
Part C Migrant Program	5,743,305	0.5	28,716
Part D, Subpart 1 State Agency N or D Program	170,859	0.5	854
TOTAL	$17,809,092		$89,045 [2]
Additional amount SEA must reserve for School Improvement ($200,000 minus $89,045)			$110,955

[1] Column (4) is column (2) times column (3).

[2] The 0.5 percent reserve is not sufficient to make $200,000 available for School Improvement. Thus, the SEA must reserve 0.5 percent, $89,045, plus an additional amount of $110,955 to make $200,000 available.

2. Determine the actual amount that the SEA will reserve for School Improvement from each State allocation. The SEA must reserve proportionate amounts from Basic and Concentration Grants but is not required to reserve proportionate amounts from its Parts A, C, and D allocations (see Example I on the following page).

Example I - 0.5 Percent Reserve Is $200,000 or More
(§200.60(b)(1) and (2)(I) of Regulations)

		Maximum [1]		Amount Reserved by the SEA	
Program	State Allocation	Percent	Amount	Percent [2]	Amount
Part A LEA Grants					
Basic Grants	$88,588,632	0.5	$442,943	0.5	$442,943
Concentration Grants	7,285,841	0.5	36,429	0.5	36,429
Part C Migrant Program	472,992	0.5	2,365	---	---
Part D, Subpart 1 State Agency N or D Program	761,985	0.5	3,810	---	---
TOTAL	$97,109,450		$485,547		$479,372

[1] Maximum amount that SEA may reserve from each State allocation is 0.5 percent.

[2] In this example, the SEA reserved less than the maximum allowed for the State. The SEA is not required to reserve proportionate amounts from each of the State allocations under Parts A, C, and D, as long as no more than 0.5 percent is taken from any allocation, the amounts reserved from Basic Grants and Concentration Grants are proportionate, and the total amount reserved is no less than $200,000.

In States where 0.5 percent of the total State allocations is at least $200,000, the SEA may not reserve more than 0.5 percent from any allocation. In States where the 0.5 percent reserve is not sufficient to meet the $200,000 minimum, the SEA will need to reserve a higher percentage from at least some of the allocations in order to meet the $200,000 minimum (see Example II on the following page).

Example II - 0.5 Percent Reserve Is Not Sufficient to Make $200,000 Available for School Improvement (§200.60(b)(2)(ii)(B) of Regulations)

		0.5% Reserve			Amounts Reserved by SEA to Make $200,000 [2]	
Program	State Allocation (1)	Percent (2)	Amount (3)	Additional Funds Required [1] (4)	Percent (5)	Amount (6)
Part A LEA Grants						
Basic Grants	$11,350,333				1.4	$162,627
Concentration Grants	544,595				1.4	7,803
Part C Migrant Program	5,743,305				0.5	28,716
Part D, Subpart 1 State Agency N or D Program	170,859				0.5	854
TOTAL	$17,809,092	0.5%	$89,045	$110,955		$200,000

[1] The SEA must reserve additional funds because $200,000 is not available for School Improvement. The SEA may, but is not required to, reserve proportionate amounts from each allocation under Parts A, C, and D to make up these additional funds, except the amounts reserved from Basic Grants and Concentration Grants must be proportionate.

[2] In this example, the SEA reserved 0.5 percent from its Part C and Part D allocations and 1.4 percent from its Part A allocations in order to reach $200,000. Note that the amount reserved from Basic and Concentration Grants must be proportionate.

BASIC GRANTS
§§200.21 and 200.22 of Regulations

In most cases an SEA will distribute Basic Grants to eligible LEAs by suballocating each county's allocation (after adjusting for funds reserved for State Administration and School Improvement) to eligible LEAs within that county (see Section II). However, in States in which a large number of LEAs overlap county boundaries, the SEA may apply for permission to allocate the total State allocation (after adjusting for State Administration and School Improvement) to LEAs without regard to the county allocations (see Section I). In States where counties and LEAs are coterminous, the SEA adjusts the county allocations to subtract SEA reserves for State Administration and School Improvement (see Section III) and, if necessary, redistributes funds from ineligible LEAs.

Formula Children

The eligibility of an LEA and the amount of each LEA's share of the State or county Basic Grant allocation is based on its number of formula children. "Formula children" refers to the count of children ages 5 through 17 years from low-income families and the number of children residing in local institutions for neglected children that an SEA uses to allocate Basic and Concentration Grant funds to LEAs. Children in local institutions for delinquent children are not included in the formula child counts for LEAs. A separate allocation for Part D, Subpart 2 is made based on the total number of children in local institutions for delinquent children in the State.

To determine the number children in LEAs from low-income families eligible to be counted in the formula, an SEA may choose one of the following options in §200.21(b)(2) of the Title I regulations to obtain its count:

- Factors in the Federal formula, which include census poverty data, data on children in families above poverty receiving payments under the program of Aid to Families with Dependent Children (AFDC), and data on foster children.

- Alternative data that an SEA determines best reflect the distribution of children from low-income families and that are adjusted to be equivalent in proportion to the total number of children counted under Section 1124© of Title I (excluding N or D children).

- Data that more accurately target poverty.

Under these options, a number of SEAs choose to use, in whole or in part, poverty data from the school district mapping project, which took county-level poverty data from the 1990 decennial census and distributed it among school districts within each county, or across the State in cases where an SEA has received permission from the Secretary to allocate Basic Grant funds directly to LEAs without regard to counties .

In accordance with section 1124(c)(3) of Title I, the Department allocated Title I, Part A funds to counties for 1997-98 using updated poverty estimates provided by the Bureau of the Census. These updated estimates were obtained by averaging the county poverty rates of children in families with incomes below poverty in 1989 (as reflected in the 1990 decennial census) and in 1993 (as reflected in the Census Bureau's updated poverty estimates) and applying that average rate to the updated 1994 population estimate of children ages 5 through 17 years. Corresponding poverty estimates for school districts, however, are not available. Therefore, an SEA that uses census poverty data to determine basic grant eligibility and to distribute the county allocations among LEAs may: (1) continue to use

existing poverty data from the 1990 school district mapping project; or (2) adjust that data to equal the updated poverty estimates used to allocate funds to counties for 1997-98.

The following examples illustrate how such an adjustment could be made:

Example I

1. Compare the 1990 decennial census data and the 1994 updated poverty estimates for each county.

Count of Poverty Children
Comparisen of 1990 Census to 1994 Updated Poverty Estimates for a County

	1990 Census (1989 Income Year)	1994 Updated Poverty Estimates (1993 Income Year)	Increase
County Total	20,900	22,500	1,600
LEA 1	12,978	NA	NA
LEA 2	982	NA	NA
LEA 3	5,040	NA	NA
LEA 4	1,900	NA	NA

2. Compare current poverty data such as free lunch counts for all LEAs in a county to determine each LEA's current share of this poverty population.

Free Lunch

	Current Free Lunch Count	Percent of County Total
County Total	37,500	1.000
LEA 1	25,000	. 667
LEA 2	1,250	.033
LEA 3	7,500	.20
LEA 4	3,750	.10

3. Multiply each LEA's percentage share of the county's total free lunch count shown in column (2) of the table below by the total increase in the county census count (shown on the county total line in column (3)). Add that number to the LEA's 1990 census count in column (1) to obtain each LEA's 1994 adjusted poverty count in column (4).

	1990 Census Count (1)	Percent of County's Current Fee Lunch Count (2)	Increase in Poverty for the County (3)	Total 1994 LEA Adjusted Poverty Count (4)
County total	20,900		1,600	22,500
LEA 1	12,978	.667	1,067	14,045
LEA 2	982	.033	53	1,035
LEA 3	5,040	.20	320	5,360
LEA 4	1,900	.10	160	2,060

Example II

1. Compare the changes in poverty data from another source from 1989 to 1993 as shown in the table below.

AFDC Children
Comparison of 1989 and 1993 AFDC Counts for LEAs

	1989 (1)	1993 (2)	Increase or Decrease (3)	Percent Change [1] (4)
County Total	15,800	17,500	1,700	
LEA 1	8,750	10,200	1,450	.8529
LEA 2	400	300	- 100	-.0588
LEA 3	5,250	5,500	250	.1471
LEA 4	1,400	1,500	100	.0588

[1] Determine each LEA's share of the county increase of 1,700 (column (3)) by dividing each LEA's count in column (3) by the total increase of 1,700.

2. Determine each LEA's share of the increase in poverty by multiplying the percentage in column (2) by the increase in the census count for the county (shown in the county total line in column (3)). In this case the increase is 1,600. Add the increase or decrease for each LEA to its 1990 census count.

Adjusted 1994 LEA Poverty Counts

	1990 Census Count (1989 Income Year) (1)	AFDC Percentage Change (2)	Increase or Decrease In Poverty Based on Changes in AFDC Counts (3)	Total 1994 LEA Adjusted Poverty Count (4)
County Total	20,900		1,600	22,500
LEA 1	12,978	.8529	1,365	14,373
LEA 2	982	-.0588	- 94	888
LEA 3	5,040	.1471	235	5,275
LEA 4	1,900	.0588	94	1,944

Please note: If an SEA adjusts the poverty counts for LEAs to equal the 1994 county counts used in allocation funds for 1997-98, it should not use 1990 census school-age population or 1990 enrollment data to compute the percentage of children from low-income families that is used to determine LEA eligibility and an LEA's hold-harmless allocation. To be comparable to the adjusted 1994 LEA poverty counts, the SEA must also adjust the 1990 census school age population data or use more current school-age population data.

LEA Eligibility

In general, to be eligible for a Basic Grant, an LEA must have at least 10 formula children and the number of such children must exceed 2 percent of the LEA's total population ages 5 through 17.

Example

	Formula Children	Total Population Ages 5 - 17	Percentage	Eligible
LEA 1	963	9,990	9.6	Yes
LEA 2 [1]	46	2,350	1.9	No
LEA 3 [2]	9	400	2.3	No
LEA 4 [3]	10	500	2.0	No

[1] Ineligible because the number of formula children is less than 2 percent of total population ages 5 through 17.
[2] Ineligible because there are less than 10 formula children.
[3] Ineligible because the number of formula children does not exceed 2 percent.

The following special provisions also apply:

- If a county and LEA are coterminous, the SEA must determine eligibility for each such LEA based on the same data used by the SEA to determine eligibility for all other LEAs in the State following the example above. The statute no longer contains an eligibility requirement for counties based on the Federal formula child count, but instead contains eligibility requirements for LEAs. Therefore, the SEA must determine eligibility for each LEA even though the coterminous county receives an allocation.

- If an LEA contains two or more counties in their entirety, the SEA must allocate funds to each county as if each county were a separate LEA. Eligibility, however, is determined based on the formula child count for the whole LEA, not just the portion in each county.

Hold-Harmless Allocation for Basic Grants

Each LEA is entitled to receive an allocation for school year 1997-98 that is not less than a specific percentage of its 1996-97 allocation, depending on its percentage of formula children to its total school-age population. The following chart shows the hold-harmless percentages:

Percent of Formula Children to Total School-Age Population	Hold-Harmless Percentage Of 1996-97 Allocation
30 percent or more	95 percent
15 percent but less than 30 percent	90 percent
Below 15 percent	85 percent

Note: the hold-harmless allocation for Part D, Subpart 2 funds is 95 percent of the 1996-97 allocation.

I. Distribution of State Basic Grant Allocation Among Eligible LEAs Within the State Without Regard to County Allocations

An SEA in a State in which a large number of LEAs overlap county boundaries may apply to the U.S. Secretary of Education (Secretary) for authority to make Basic Grant allocations directly to LEAs without regard to counties (Section 1124(a)(2)). If an SEA has requested and received approval from the Secretary and intends to use the same data sources as approved, the following steps should be followed to determine LEA allocations. An SEA that has previously been approved to allocate funds to LEAs without regard to counties, but wishes to change its formula data, must apply to the Secretary for approval to use revised data. This authority does not apply to Concentration Grant allocations.

Determine Amount Available for Distribution to LEAs

1. Determine amounts and percentages to be reserved by the SEA for State Administration and School Improvement. (See guidance on reserving funds for State Administration and School Improvement.)

2. Adjust the allocation shown at the end of the county allocation printout for Part D, Subpart 2 funds to reserve funds for State Administration and School Improvement.

Example

Part D, Subpart 2 Allocation on County Printout	$918,747
Deductions:	
State Administration (1 percent) [1]	(9,187)
School Improvement (0.5 percent) [2]	(4,594)
Subtotal	(13,781)
Amount available for Part D, Subpart 2 Grants	$904,966 [3]

[1] Percentage must agree with the percentage reserved by the SEA from the Basic Grant allocation for State Administration.

[2] Percentage must agree with the percentage reserved by the SEA from the Basic Grant allocation for School Improvement.

[3] This allocation must equal or exceed 95 percent of the 1996-97 allocation.

3. From the total State allocation for Basic Grants, subtract the following amounts to determine the amount that remains available to distribute directly to LEAs:

   - Amount reserved for State Administration;
   - Amount reserved for School Improvement; and
   - Part D, Subpart 2 funds as adjusted in Step 2.

Example

Total State Basic Grant Allocation	$99,708,370
Deductions:	
State Administration (1 percent)	(997,084)
School Improvement (0.5 percent)	(498,542)
Part D, Subpart 2	(904,966) [1]
Subtotal	(2,400,592)
Total funds available for LEAs	$97,307,778

[1] Amount shown on county printout ($918,747) adjusted to reserve funds for State Administration and School Improvement.

Distribute State Basic Grant Allocation Among Eligible LEAs

4. Add the total number of formula children for all eligible LEAs in the State. (Do not include Part D, Subpart 2 formula children.)

   Reminder: Include children from low-income families and children in local institutions for neglected children. Do not include counts for ineligible LEAs and do not include children in local institutions for delinquent children.

5. Divide the adjusted State allocation (determined under Step 3) by State total formula child count (from Step 4) to determine the amount per formula child for the State.

6. Multiply the State amount per formula child (determined under Step 5) by the number of formula children in each eligible LEA to determine each LEA's Basic Grant allocation.

Calculate Hold-Harmless

7. If an LEA's allocation under Step 6 is less than its 1996-97 allocation (according to the variable hold-harmless percentages outlined on page 13) increase the LEA's allocation to the hold-harmless amount, and proportionately decrease the allocations for LEAs in the State that have allocations in excess of their hold harmless allocation. Repeat if necessary until each LEA receives an allocation that equals or exceeds its hold-harmless allocation.

II. Distribution of Each County Basic Grant Allocation Among Eligible LEAs Within the County

Determine Amount Available for Distribution to LEAs

1. Determine the total amount to be reserved by the SEA for State Administration and School Improvement (see guidance on State Administration and School Improvement). Subtract this amount from the total State allocation for Basic Grants.

2. Ratably reduce each county allocation proportionately to the amount available after Step 1. Treat the Part D, Subpart 2 allocation shown at the end of the county allocation printout as a county.

Distribute County Allocations Among Eligible LEAs

3. For each county, add the formula child count for all LEAs in the county. In years prior to the 1996-97 school year, SEAs were not required to determine allocations for ineligible LEAs. In order to comply with section 1124(b) of Title I (concerning reallocation of funds because LEAs no longer qualify), however, allocations for ineligible LEAs must now be computed so the funds in the State generated by the formula children in those LEAs can be reallocated proportionately among eligible LEAs across the State.

   If an eligible LEA overlaps a county boundary, the SEA must treat the portion of the LEA in each county as a separate LEA, except for eligibility purposes. In each county the SEA must include in the count only those formula children in the LEA who are in that county. (The LEA will receive Basic Grant funds for its formula children in other counties from the Basic Grant allocations for those counties.)

   Reminder: Include formula child counts for all LEAs, including ineligible LEAs. Include children from low-income families and children in local institutions for neglected children. Do not include children in local institutions for delinquent children.

   Reminder: If a county and LEA are coterminous, the SEA must determine eligibility for each such LEA based on the same data used by the SEA to determine eligibility for all other LEAs in the State. The statute no longer contains an eligibility requirement for counties based on the Federal formula child count, but instead contains eligibility requirements for LEAs. Therefore, the SEA must determine eligibility for each LEA even though the coterminous county receives an allocation. If any LEAs are not eligible to receive a Basic Grant, the SEA must redistribute the funds from such LEAs among the State's eligible LEAs as described in Steps 8 through 10 on page 17.

4. Divide adjusted county allocation (determined under Step 2) by the total formula child count (determined under Step 3) to determine the amount per formula child for the county.

5. Multiply the county amount per formula child by the number of formula children in each LEA in the county to determine each LEA's Basic Grant allocation.

Calculate Hold-Harmless -- Please note that ineligible LEAs are not entitled to a hold-harmless allocation. Part D, Subpart 2 is treated as an LEA and is eligible for a hold-harmless allocation.

6. If an LEA's allocation under Step 5 is less than the amount it is entitled to receive based on the respective hold-harmless percentage of its 1996-97 allocation (according to the variable hold-harmless percentages outlined on page 13), increase the LEA's allocation to its hold-harmless level and proportionately decrease the allocations for LEAs in the county (including ineligible LEAs) that have allocations in excess of their hold-harmless allocations. Repeat this step as necessary to ensure that no LEA's allocation is less than its hold-harmless amount.

7. If a county allocation is not sufficient to pay all eligible LEAs in the county their hold-harmless allocations, the SEA must follow these procedures:

   A. Compute allocations for LEAs in all counties following Steps 1 through 6. Add LEA allocations in each county and compare this total to the county allocation determined under Step 2. If the county allocation determined in Step 2 is less than the total for the LEA allocations in the county, determine the amount by which the county allocation under Step 2 is deficient.

   B. Add the deficient amounts for all counties in the State.

   C. Add the allocation for all LEAs in the State whose allocations after Step 6 exceed their hold-harmless allocations. Also include ineligible LEA allocations and the Part D, Subpart 2 allocation if such allocation exceeds its hold-harmless allocation.

   D. Ratably reduce the LEA allocations in Step 7C above to provide the deficient amount determined in Step 7B.

   E. Compare each LEA's ratably reduced allocation in Step D to its hold-harmless allocation. If an LEA or the Part D, Subpart 2 allocation is below the hold-harmless, such allocation must be increased.

      (1) If any LEA allocation under Step E must be increased to its hold-harmless allocation, ratably decrease other LEAs in the same county whose allocations exceed their hold-harmless allocations.

      (2) If there are no funds available from other LEAs because there are no LEAs in the county with allocations that exceed their hold-harmless amounts, or if the amount that is available is not sufficient to bring the LEA up to its hold harmless, or the Part D, Subpart 2 funds are less than the hold-harmless, the SEA must again ratably reduce all allocations of other LEAs in the State as described in Steps D and E whose allocations exceed their hold-harmless allocations.

   F. Continue ratable reductions within counties or statewide, if hold-harmless allocations cannot be made up within counties, until all LEA allocations equal or exceed their hold-harmless amounts.

Redistribution of Funds from Ineligible LEAs

8. After making allocations for all LEAs in the State (Steps 3 through 7), determine the total of the allocations for all ineligible LEAs by adding the allocations for all such LEAs in the State. These funds must be reallocated among only eligible LEAs whose allocations exceed their hold-harmless allocations.

9. Compute each such LEA's share of the funds that are available for reallocation from ineligible LEAs, as follows:

   A. Divide the total allocations for ineligible LEAs in the State (Step 8) by the total formula child count for only the LEAs whose allocations exceed their hold-harmless amounts to obtain an amount per formula child. Treat the Part D, Subpart 2 allocation as an eligible

LEA, provided the Part D, Subpart 2 allocation exceeds 95 percent of its 1996-97 allocation.

B. Multiply the amount determined in Step A by the formula child count in each LEA or Part D, Subpart 2 that is eligible for the reallocated funds.

10. Add the additional funds determined in Step B above to the amounts for eligible LEAs determined in Steps 3 through 7. The total represents the final Basic Grant allocation for these LEAs.

III. Determining Basic Grant Allocations When All (or Almost All) LEAs Are Coterminous With Counties

In years prior to the 1996-97 school year, SEAs in States where all (or almost all) LEAs are coterminous with counties did not need to follow the above procedures because they could simply provide the LEAs with the amounts allocated by the Secretary to their coterminous counties (after adjusting the county allocations to reserve funds for State Administration and School Improvement). However, SEAs now must follow additional steps to ensure that they are accurately allocating Part A funds due to the following special circumstances:

1. Follow Steps 1 and 2 under Section **II. Distribution of Each County Basic Gant Allocation Among Eligible LEAs Within the County** beginning on page 15).

2. If a few LEAs in a State are not coterminous with a county, the SEA must suballocate the county amount to eligible LEAs within the county following the procedures described in Section II. An SEA must determine eligibility for each LEA (including those that are coterminous with a county) based on the same data.

3. Calculate hold-harmless amounts. Follow Step 6 in Section II beginning on page 16 treating the State as a county.

4. The statute no longer contains an eligibility requirement for counties based on the Federal formula child count, but instead contains eligibility requirements for LEAs. Therefore, the SEA must determine eligibility for each LEA even though the coterminous county receives an allocation (see section on LEA Eligibility on page 12). If the State contains any LEAs that are not eligible to receive a Basic Grant, the SEA must redistribute the funds from such LEAs among the State's eligible LEAs in accordance with Steps 8-10 of Section II (beginning on page 17).

CONCENTRATION GRANTS
§200.23 of Regulations

Unlike Basic Grants, SEAs must generally suballocate each county's Concentration Grant allocation to eligible LEAs within that county and may not allocate funds without regard to county allocations (see Section I). Normally, the only exception to this rule is for those States receiving a State minimum allocation under Section 1124A(a)(1)(B). These States may allocate funds to LEAs without regard to the county allocations or they may suballocate the county allocations to eligible LEAs within each county (see Section II).

LEA Eligibility

In general, to be eligible for a Concentration Grant, an LEA must be eligible for a Basic Grant and the number of formula children used to determine Basic Grant eligibility must exceed 6,500 or the number must exceed 15 percent of the total children in the LEA ages 5 through 17.

However, special provisions apply in the following cases:

- If an LEA is located in an eligible county that receives a Concentration Grant allocation from ED and has no LEAs that meet the 6,500 or 15 percent threshold, the number or percentage of formula children in that LEA must exceed either the average number or percentage of those children in the county.

- If an LEA contains two or more counties in their entirety, the SEA must allocate funds to each county as if each county were a separate LEA. Eligibility, however, is determined based on the formula child count for the whole LEA, not just the portion in each county.

- If a State receives a State minimum allocation, the SEA may identify as eligible any LEA in which the number or percentage of formula children exceeds the average number or percentage of those children in the State (see Section II).

Reminder: In the formula children count for LEAs, include children from low-income families and children in local institutions for neglected children. Do not include children in local institutions for delinquent children.

I. Distribution to Eligible LEAs on a County-by-County Basis

Determine Amount Available for Distribution to LEAs

1. From the total State Concentration Grant allocation, subtract amounts reserved by the SEA for State Administration and School Improvement. (These amounts must represent the same percentages of the total allocation as are reserved from Basic Grants.)

2. From the amount remaining after funds are reserved under Step 1, subtract 2 percent or less of the State allocation for eligible LEAs in ineligible counties (Optional).

3. Ratably reduce each county allocation shown on the printout proportionately to the amount remaining after funds are reserved under Steps 1 and 2. Treat the Part D, Subpart 2 allocation shown at the end of the county allocation printout as a county.

Distribute County Allocations Among Eligible LEAs

4. For each county, add the total number of formula children for all eligible LEAs in the county. If an eligible LEA overlaps a county boundary, the SEA must include in this count only those formula children in the LEA who are in that county. (The LEA will receive Concentration Grant funds for its formula children in other counties from the Concentration Grant allocations for those counties, if those counties are eligible to receive Concentration Grants.)

5. Divide the adjusted county allocation (determined in Step 3) by the total formula child count for eligible LEAs in the county (determined in Step 4) to determine the amount per formula child for the county.

6. Multiply the amount per child times the number of formula children in each eligible LEA in the county to determine each eligible LEA's Concentration Grant allocation.

7. In an eligible county with no eligible LEAs, identify those LEAs in which either the number or percentage of formula children exceeds the average number or percentage of those children in the county.

   A. Divide the adjusted county allocation (determined in Step 3) by the total formula child count for the LEAs identified above to determine the amount per formula child for the county.

   B. Multiply the county amount per formula child by the formula child count in each LEA identified above to determine each LEA's Concentration Grant allocation.

II. Distribution to LEAs in a State Receiving a Minimum Allocation

A State receiving a minimum allocation has two options for determining LEA Concentration Grant allocations:

1. The SEA may follow the same procedures outlined in Section **I. Distribution to Eligible LEAs on a County-by-County Basis** (on page 19), after distributing the unassigned funds shown at the bottom of the county allocation printout proportionately among each eligible county; or

2. The SEA may allocate Concentration Grant funds without regard to the county allocations, as follows:

   Determine Amount Available for Distribution to LEAs

   A. Determine amounts and percentages to be reserved from the State's Concentration Grant allocation for State Administration and School Improvement. Subtract from the State allocation.

   B. Adjust the allocation shown at the end of the county printout for Part D, Subpart 2 funds to reserve funds for State Administration and School Improvement. Subtract from the State Concentration Grant allocation.

Example

Part D, Subpart 2 Allocation on County Printout	$194,530
Deductions:	
State Administration (1 percent) [1]	(1,945)
School Improvement (0.5 percent) [2]	(973)
Subtotal	(2,918)
Amount available for Part D, Subpart 2 Grants	$191,612

[1] Percentage must agree with the percentage reserved by the SEA from the State Concentration Grant allocation for State Administration.

[2] Percentage must agree with the percentage reserved by the SEA from the State Concentration Grant allocation for School Improvement.

Identify Eligible LEAs

C. Identify as eligible those LEAs in which either the number or percentage of formula children exceeds the average number or percentage of those children in the State.

Reminder: In the formula children count for LEAs, include children from low-income families and children in local institutions for neglected children. Do not include children in local institutions for delinquent children.

Distribute the State Allocation Among Eligible LEAs

D. Add the count of formula children for all LEAs identified in Step 2C.

E. Divide the adjusted State allocation after amounts are reserved under Steps 2A and 2B by the total number of formula children (under Step D) to arrive at an amount per child.

F. Multiply the amount per formula child by the number of formula children in each eligible LEA to determine each LEA's Concentration Grant allocation.

PART D, SUBPART 2 - LOCAL PROGRAMS FOR CHILDREN IN INSTITUTIONS FOR DELINQUENT CHILDREN

1. Determine which LEAs are eligible to receive grants. The SEA must award grants to LEAs with high numbers or percentages of youth residing in locally operated (including county-operated) correctional facilities for youth (including institutions and community day programs or schools that serve delinquent children and youth). The SEA has flexibility in establishing criteria to determine which LEAs have high numbers or percentages of such children.

2. An SEA may distribute Part D, Subpart 2 funds to eligible LEAs on a formula or discretionary basis.

3. If the SEA chooses to make grants on a formula basis, the following procedure could be used:

   A. Add the amounts available for Part D, Subpart 2 from Basic Grants and Concentration Grants after funds are reserved for State Administration and School Improvement.

   B. Add the number of children in correctional facilities in LEAs with high numbers or percentages of children determined under Step 1.

   C. Divide the available Part D, Subpart 2 funds by the number of children in Step B to arrive at an amount per formula child.

   D. Multiply the number of formula children in each LEA by the amount per formula child to determine the LEA's grant.

   E. Notify the LEA of its eligibility and grant amount.

4. If grants are made by the SEA on a discretionary basis, the SEA needs to establish procedures for notifying LEAs of their eligibility as determined under Step 1 and set priorities for funding that are used as the basis for making awards.

QUESTIONS AND ANSWERS

Children to be Counted

Q1. What data must an SEA use to allocate funds to LEAs?

A. An SEA must count the number of children ages 5 through 17 from low-income families and the number of children residing in local institutions for neglected children.

Q2. What low-income data may an SEA use to allocate Basic Grant, Concentration Grant, and Targeted Grant funds to LEAs?

A. An SEA may use any one of the following to obtain counts of children from low-income families:

- Factors in the Federal formula, which include census poverty data, data on children in families above poverty receiving payments under the program of Aid to Families with Dependent Children (AFDC), and data on foster children.

- Alternative data that an SEA determines best reflect the distribution of children from low-income families and that are adjusted to be equivalent in proportion to the total number of children counted under Section 1124(c) of Title I (excluding N or D children).

- Data that more accurately target poverty.

Although an SEA possess broad discretion in selecting the poverty data it will use, these data must further the purposes of Title I, Part A by directing funds to high-poverty areas. If an SEA decides to use data that are different from those used in the county allocation formula, the SEA must ensure that it is using the best available data on the number of children from low-income families.

Q3. May an SEA use a variety of sources of low-income data within the State to distribute the various county allocations among LEAs?

A. No. In determining the number of children from low-income families in its LEAs, the SEA must use the same measure of low-income throughout the State.

Q4. May an SEA use a combination of low-income factors if these data are used consistently for allocation purposes throughout the State?

A. Yes. For instance, a State might choose to use both decennial census data and current free-lunch data. The SEA must weight the data, however, so that LEA allocations are not determined on the basis of duplicate counts of children.

Neglected Children

Q5. If an LEA is unable or unwilling to provide services to children in local institutions for neglected children, may it retain the funds that were allocated on the basis of these children?

A. No. If an LEA is unwilling or unable to provide services to neglected children, the SEA must reduce the LEA's allocation by the amount generated by the neglected children.

Q6. May the SEA transfer these funds to another LEA?

A. Yes. These funds may be assigned to another State agency or LEA that agrees to assume educational responsibility for the neglected children.

Q7. May the SEA retain these funds?

A. Yes. If the SEA assumes educational responsibility for the neglected children, it is entitled to the funds generated by these children.

Q8. If neither the SEA nor another agency is willing to assume educational responsibility for neglected children, what happens to the funds?

A. The SEA must reduce the LEA's allocation by the amount that was based on neglected children. These funds would lapse and not be available for reallocation to other LEAs.

Q9. If an institution closes and the children are transferred to an institution in another LEA, must the SEA transfer the funds to the LEA in which the children now reside?

A. Yes. The SEA must adjust the allocations of the two LEAs to reflect the transfer.

Statewide Distribution

Q10. Under what circumstances may SEAs allocate funds directly to LEAs without regard to county allocations determined by the Secretary?

A. In any State in which a large number of LEAs overlap county boundaries, the SEA may apply to the Secretary for the authority to make Basic and Targeted Grant allocations directly to LEAs without regard to counties. In its application to the Secretary, the SEA must identify the data on children from low-income families it will use to allocate funds to LEAs and provide assurance that:

- Allocations will be based on data approved by the Secretary; and
- The SEA has established procedures through which an LEA dissatisfied with the determination by the SEA may appeal directly to the Secretary for a final determination.

Q11. May an SEA allocate Concentration Grants directly to LEAs without regard to counties?

A. Yes. An SEA may make allocations directly to LEAs without regard to counties if it is a State receiving a minimum Concentration Grant allocation from the Secretary.

Special Circumstances

Q12. Are there special circumstances that allow an SEA to make adjustments when determining final LEA allocations?

A. Yes. An SEA may adjust allocations it makes to LEAs for Basic Grants, Concentration Grants, and Targeted Grants if (1) two or more LEAs serve, in whole or in part, the same geographic area; (2) an LEA provides free, public education for children who reside in another LEA; or (3) an LEA is merged or consolidated, or a portion of the district is transferred to another LEA.

Q13. How must an SEA treat LEAs that contain two or more counties in their entirety?

A. Section 1124(c)(2) of Title I requires that an SEA treat each county as if it were a separate LEA. The LEA, in turn, must distribute to schools in each county within the LEA a share of the LEA's total grant that is no less than the county's share of the population counts used to calculate the LEA's grant.

Basic Grants

Q14. What data does an SEA use to determine whether an LEA qualifies for Basic Grants?

A. In determining whether an LEA qualifies for Basic Grants, the SEA uses the count of children ages 5 through 17 from low-income families **that it has selected to use** to allocate funds to LEAs plus the number of children residing in local institutions for neglected children.

Concentration Grants

Q15. Are SEAs required to use the same count of children to determine LEA eligibility and allocate funds for Concentration Grants as they use to allocate Basic Grant funds?

A. Yes. To determine LEA eligibility and to allocate Concentration Grant funds, SEAs must use the same count of children used to allocate Basic Grant funds and determine eligibility. However, when a county and LEA are coterminous and the county receives a Concentration Grant from ED based on the Federal formula, the SEA is not required to determine Concentration Grant eligibility for that LEA.

Q16. If an LEA overlaps county boundaries and only one of the counties is eligible for a Concentration Grant, how does the SEA determine the LEA's eligibility to receive Concentration Grant funds and the amount of such funds for the LEA?

A. An LEA's eligibility is determined based on its total number of formula children, including those in all counties in which the LEA is located. The LEA is eligible if that number exceeds 6,500 or 15 percent of all children in the LEA. If the eligible LEA is located in part in an eligible county and in part in an ineligible county, the LEA is entitled to a proportionate amount of the eligible county's Concentration Grant allocation based only on the LEA's number of formula children in that county compared to the total number of formula children in all eligible LEAs in the county. The children in the part of the LEA located in the ineligible county would not generate funds for the LEA.

Q17. Is an SEA required to reserve 2 percent of its Concentration Grant allocation for eligible LEAs that are located in ineligible counties?

A. No. This is an SEA option. The SEA may choose to reserve 2 percent, an amount less than 2 percent, or no funds at all.

Q18. If an SEA reserves Concentration Grant funds, must it distribute the reserved amount among all eligible LEAs in the State that are located in ineligible counties?

A. No. The SEA may rank order these LEAs according to the number or percentage of formula children and distribute the reserved funds among the selected LEAs it plans to serve in rank order based on their counts of formula children.

Q19. Is there an LEA hold-harmless provision for Concentration Grant funds?

A. There is no hold-harmless provision for Concentration Grants for school year 1997-98 and beyond. Section 1122(c)(2) of Title I provided a hold-harmless of 100 percent of the previous year's amount for 1996-97 only.

Hold-Harmless Provisions

Q20. If an LEA loses eligibility for Basic Grants in 1997-98, does the hold-harmless provision apply?

A. No. An LEA must be eligible in order for the hold-harmless provision to apply.

Q21. Is an LEA that received Title I, Part D, Subpart 2 funds in 1996-97 entitled to receive a hold-harmless allocation for 1997-98?

A. No. The hold-harmless provisions of Title I, Part A do not apply to subgrants received by LEAs under Part D, Subpart 2.

Reallocation

Q22. How does an SEA reallocate funds?

A. Section 1126(c) of Title I requires that an SEA reallocate Part A funds on a timely basis to LEAs in the State that need additional funds in accordance with criteria established by the SEA. Funds available for reallocation may include:

- Excess Part A funds available from an LEA that: (1) is eligible for a Title I allocation but has chosen not to participate in the Title I program; (2) has had its allocation reduced because it failed to meet the maintenance of effort requirements in Section 14501 of ESEA; (3) has carryover funds that exceed the 15 percent limitation in Section 1127 of Title I; or (4) has excess funds for other reasons; or

- Funds that an SEA has recovered after determining that an LEA has failed to spend Part A funds in accordance with the law.

Waivers

Q23. May the provisions related to the allocation of Basic, Concentration, and Targeted Grant funds to LEAs be waived?

A. No. Section 14401(c) of SEA prohibits the Secretary from waiving any statutory or regulatory provisions related to the allocation or distribution of funds to States, LEAs, or other recipients of funds under the SEA.

LEA IDENTIFICATION AND SELECTION OF SCHOOL ATTENDANCE AREAS AND ALLOCATION OF TITLE I FUNDS TO SCHOOL ATTENDANCE AREAS AND SCHOOLS

Section 1113 of Title I contains the requirements for identifying eligible school attendance areas and selecting those eligible areas that will participate in Title I, Part A. It also contains the requirements for allocating Part A funds to participating areas. The following points summarize these requirements:

General Selection Requirements

1. An LEA must rank all of its school attendance areas in rank order of poverty.

   - **An LEA must use the same measure of poverty for:**
     - **Identifying eligible school attendance areas.**
     - **Determining the ranking of each area.**
     - **Determining the allocation for each area.**
   - **The LEA must select a poverty measure from the following options:**
     - **Children ages 5-17 in poverty counted in the most recent census data approved by the Secretary.**
     - **Children eligible for free and reduced-price lunches under the National Free School Lunch Act.**
     - **Children in families receiving assistance under the Aid to Families with Dependent Children (AFDC) program.**
     - **Children eligible to receive medical assistance under the Medicaid program.**
     - **A composite of any of the above measures.**
   - **An LEA must rank school attendance areas based on the percentage (not the number) of low-income children counted.**

2. After an LEA has ranked all of its school attendance areas by poverty, the LEA must serve, in rank order of poverty, its areas above 75 percent poverty, including any middle schools or high schools.

3. Only after an LEA has served all of its areas with a poverty rate above 75 percent may the LEA serve lower-ranked areas. The LEA has the option to **(1)** continue on with the districtwide ranking or **(2)** rank remaining areas by grade span groupings.

   - **The same districtwide poverty average must be used if the LEA selects option (1).**
   - **For ranking by grade span groupings, the LEA may use (1) the distictwide poverty average or (2) the districtwide grade span poverty averages for the respective grade span groupings.**

- **If an LEA has no school attendance areas above 75 percent poverty, the LEA may rank districtwide or by grade span groupings.**

- **An LEA's organization of its schools defines its grade span groupings. For example, if an LEA had elementary schools serving all elementary grades, middle schools, and high schools, the grade span groupings would be grades K-5, 6-8, and 9-12. To the extent an LEA has schools that overlap grade spans (e.g., K-5, K-8, 6-8), the LEA may include a school in the grade span in which it is most appropriate.**

4. An LEA with an enrollment of less than 1,000 students or with only one school per grade span is not required to rank its school attendance areas.

LEA Discretion in Selecting Participating Areas and Schools

5. An LEA may--

   - Designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families--i.e., the "35 percent rule."

   - Use Part A funds in a school that does not serve an eligible school attendance area if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of the LEA.

   - Elect not to serve an eligible school attendance area or school that has a higher percentage of children from low-income families if--

     - The school meets the Title I comparability requirements;

     - The school is receiving supplemental funds from other State or local sources that are spent according to the requirements of Sections 1114 or 1115; and

     - The funds expended from such other sources equal or exceed the amount that would be provided under Part A.

Allocating Title I Funds to Participating Areas and Schools

6. An LEA must allocate Part A funds to participating school attendance areas or schools, in rank order, on the basis of the total number of children from low-income families in each area or school. An LEA with an enrollment of less than 1,000 students or with only one school per grade span is not required to allocate funds to areas or schools in rank order.

7. If an LEA serves any areas or schools below 35 percent poverty, the LEA must allocate to all its participating areas or schools an amount for each low-income child in each participating school attendance area or school that is at least 125 percent of the LEA's allocation per low- income child.

   - **An LEA's allocation per low-income child is the total LEA allocation under subpart 2 of Part A divided by the number of low-income children in the LEA according to the poverty measure selected by the LEA to identify eligible school attendance areas. The LEA then multiplies this per-child amount by 125 percent.**

- **An LEA calculates 125 percent of its allocation per low-income child before the LEA reserves any funds.**

- **An LEA must allocate at least this amount for each low-income child in every school the LEA serves, not just for those schools below 35 percent poverty.**

- **If remaining funds are not sufficient to fully fund the next ranked eligible school attendance area or school, the LEA may serve the area or school if it determines the funds are sufficient to enable children to make adequate progress toward meeting the State's challenging performance standards.**

8. An LEA serving only areas or schools at or above 35 percent poverty must allocate funds in rank order, on the basis of the total number of low-income children in each area or school but is not required to allocate 125 percent of the LEA's allocation per low-income child (described in 7. above). However, in determining what per-child amount to allocate, the LEA should bear in mind the purpose of such funding--to enable children who are most at risk to meet the State's challenging student performance standards.

9. An LEA is not required to allocate the same per-child amount to each area or school. However, the LEA must allocate a higher per-child amount to areas or schools with higher poverty rates than it allocates to areas or schools with lower poverty rates.

10. An LEA that opts to serve schools below 75 percent poverty using grade span groupings may determine different per-child amounts for different grade spans as long as those amounts do not exceed the amount allocated to any area or school above 75 percent poverty. Per-child amounts within grade spans may also vary as long as the LEA allocates higher per-child amounts to areas or schools with higher poverty rates than it allocates to areas or schools with lower poverty rates.

QUESTIONS AND ANSWERS

Q1. When applying the "35 percent rule," must all school attendance areas with at least 35 percent poverty be served?

A. No. However, school attendance areas to be served must be selected in rank order.

Q2. Section 1113(b)(1)(C)(I)(II) allows an LEA to skip an eligible school attendance area or school that has a higher percentage of poverty if the area or school is spending supplemental State or local funds "according to the requirements of section 1114 or 1115." What is meant by "according to the requirements of section 1114 or 1115?"

A. A supplemental State or local program meets the requirements of Section 1114 if the program:

- Is implemented in a school that meets the schoolwide poverty threshold for eligibility.

- Is designed to upgrade the entire educational program in the school to support students in their achievement toward meeting the State's challenging student performance standards.

- Is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student performance standards.

- Uses the State's system of assessment to review the effectiveness of the program.

A supplemental State or local program meets the requirements of Section 1115 if the program:

- Serves only children who are failing, or most at risk of failing, to meet the State's challenging student performance standards.
- Provides supplementary services designed to meet the special educational needs of the children who are participating to support their achievement toward meeting the State's student performance standards that all children are expected to meet.
- Uses the State's system of assessment to review the effectiveness of the program.

Q3. How does an LEA handle carryover funds when allocating funds to school attendance areas?

A. Although an LEA may not use carryover funds to provide services in an ineligible school, an LEA has considerable discretion in handling carryover funds. Some of these options include:

- Allow each school to retain its carryover funds for use in the subsequent year.
- Add carryover funds to the LEA's subsequent year's allocation and distribute to participating areas and schools in accordance with allocation procedures.
- Designate carryover funds for particular activities that could best benefit from additional funding. (Examples: parental involvement activities; schools with the highest concentrations of poverty.)

Regardless of the option an LEA elects, the LEA may not carry over more than 15 percent of its allocation from one year to the next. This percentage limitation does not apply to an LEA that receives an allocation of less than $50,000 under subpart 2 of Part A. An SEA may, once every three years, waive the percentage limitation if it determines that the request of an LEA is reasonable and necessary or if supplemental appropriations become available.

Q4. May an LEA allocate a greater per-pupil amount, for example, to schoolwide program schools than to targeted assistance schools since schoolwide programs serve all children in the school?

A. The Title I statute requires allocations to be based on the total number of low-income children in a school attendance area or school. Therefore, poverty is the only factor on which an LEA may determine funding. In other words, an LEA may not allocate funds based on the instructional model, educational need, or any other non-poverty factor. In fact, now that Part A places the responsibility for selecting participants and designing programs on schools rather than on the LEA, the LEA will not necessarily be in a position to know in advance the instructional model or educational need when determining allocations.

Q5. May an LEA reserve funds from its Part A allocation before distributing funds to school attendance areas?

A. Yes. Before allocating funds an LEA shall reserve funds as are reasonable and necessary to--

- Provide services comparable to those provided to children in participating school attendance areas and schools to serve--
  - Children in local institutions for neglected children; and
  - Where appropriate--
    - Eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters.
    - Children in local institutions for delinquent children.
    - Neglected and delinquent children in community day school programs.
- Meet the requirements for parent involvement. An LEA that receives more than $500,000 under subpart 2 of Part A must spend at least 1 percent of its allocation for parental involvement activities. However, funds that schools spend for parent involvement activities may count toward meeting this requirement.
- Administer Part A programs for public and private school children, including special capital expenses not paid for from funds provided under §200.16 of the Title I regulations that are incurred as a result of implementing alternative delivery systems to comply with the requirements of Aguilar v. Felton.
- Conduct other authorized activities such as preschool programs, summer school and intersession programs, professional development, school improvement, and coordinated services.

Because the reservation of funds by an LEA will reduce the funds available for distribution to participating areas and schools, the LEA must consult with teachers, pupil services personnel (where appropriate), principals, and parents of children in participating schools in determining, as part of its LEA plan, what reservations are needed. This issue must also be part of the consultation with private school officials before an LEA makes any decisions that affect the opportunities of eligible private school children to participate in Part A programs.

Q6. Is there a maximum amount that an LEA may reserve?

A. No. An LEA must bear in mind, however, that the goal of Part A is to enable participating children to make adequate progress toward meeting the challenging student performance standards that all children are expected to meet. Moreover, the LEA must calculate 125 percent of the LEA's allocation per low-income child before it reserves any funds.

Q7. How may an LEA reserve funds for activities such as parental involvement and professional development?

A. An LEA may reserve funds at the LEA level for activities such as parental involvement and professional development or the LEA may require its Title I schools to carry out these activities from their allocations. For example, an LEA that is required to spend at least 1 percent of its allocation for parental involvement activities may reserve the full 1 percent from its Part A allocation, require each school to spend a requisite amount from its Part A allocation, or use a combination of these approaches.

Q8. May an LEA consider variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to school attendance areas?

A. Yes, this is an allowable option for the LEA. The statute requires that Part A funds be allocated to school attendance areas and schools on the basis of the number of children from low-income families in each area or school. This provision assumes, for example, that two schools with the same number of poor children need similar amounts of funds to provide comparable educational programs to participating children. An inequity may occur, however, if schools with similar allocations offering similar instructional programs need to spend different amounts because of the salary and fringe benefit costs of the staff providing the instruction. To address this situation, an LEA may consider variations in personnel costs, such as seniority pay differentials or fringe benefits differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to school attendance areas or schools. The LEA would pay the differential salary and fringe benefit costs from its administrative funds taken off the top of the LEA's allocation. This policy would have to be applied consistently to staff serving both public and private school children throughout the LEA.

Q9. How may preschool children be served under Part A?

A. There are several ways in which preschool children may be served under Part A. For example--

- A participating school may use part of its Part A funds to operate a preschool program.
- An LEA may reserve an amount from the LEA's total allocation to operate a Part A preschool program for eligible children in the district as a whole or for a portion of the district.
- An LEA may reserve an amount from the LEA's total allocation and distribute these funds to schools that wish to operate a Part A preschool program.

Q10. Is there any flexibility in how an LEA may count children from low-income families in middle and high schools?

A. Of the four measures of poverty the statute permits an LEA to use for identifying eligible school attendance areas and allocating funds to those areas, eligibility for free or reduced-price lunch is by far the measure most frequently used. Yet, we know from experience that high school and middle school students are less likely to participate in free and reduced-price lunch programs than are elementary school students. Hence, those schools often may not be identified as eligible for Title I services or, if eligible, may not receive as high an allocation as their actual poverty rate would require. In order to address the situation, an LEA may use comparable data collected

through alternative means such as a survey. Also, an LEA may use the feeder pattern concept. This concept would allow the LEA to project the number of low-income children in a middle school or high school based on the average poverty rate of the elementary school attendance areas that feed into that school.

EXAMPLE OF FEEDER PATTERN

DISTRICT	ENROLLMENT	LOW-INCOME #
(Elementary)		
School A	568	364
School B	329	163
School C	588	262
School D	836	277
Total	2,321	1,066
(High School)	2,000	**918**

Calculate average percentage of poverty for the four elementary school attendance areas by dividing the total number of low-income children by the total enrollment (1,066/2,321). The average percentage of poverty is 45.92%.

Because these four elementary schools feed into the high school, the poverty percentage of the high school is also 45.92%.

To calculate the number of low-income students in the high school, multiply the total school enrollment by the average percentage of poverty for the four elementary feeder schools (2,000 x 45.92%). **This is the number used for allocating Title I funds to the high school.**

EXAMPLE OF FEEDER PATTERN

DISTRICT	ENROLLMENT	LOW-INCOME #
(Elementary)		
School A (1)	512	360
School B (1)	322	142
School C (2)	450	100
School D (1)	376	201
School E (2)	504	221
School F (2)	610	307
School G (1)	416	202
Total	3,190	1,533
(Middle School 1)	1,599	**890**

Calculate average percentage of poverty for elementary attendance areas A, B, D, and G by dividing the total number of low-income children in schools A, B, D, and G by the total enrollment of schools A, B, D, and G (905/1,626). The average percentage of poverty is 55.66%.

Because these four elementary schools feed into Middle School 1, the poverty percentage of Middle School 1 is also 55.66%

To calculate the number of low-income students in Middle School 1, multiply the total school enrollment by the average percentage of poverty for the four elementary feeder schools (1,599 x 55.66%). **This is the number used for allocating Title I funds to Middle School 1.**

(Middle School 2)	1,325	**532**

Calculate average percentage of poverty for elementary attendance areas C, E, and F by dividing the total number of low-income children in schools C, E, and F by the total enrollment of schools C, E, and F (628/1,564). The average percentage of poverty is 40.15%.

Because these three elementary schools feed into Middle School 2, the poverty percentage of Middle School 2 is also 40.15%.

To calculate the number of low-income students in Middle School 2, multiply the total school enrollment by the average percentage of poverty for the three elementary feeder schools (1,325 x 40.15%). **This is the number used for allocating Title I funds to Middle School 2.**

Feeder Pattern Example (continued)

(High School)	3,000	**1,422**

Calculate average percentage of poverty for all elementary attendance areas by dividing the total number of low-income children by the total enrollment (1,533/3,190) The average percentage of poverty is 48.06%.

Because all elementary schools eventually feed into the high school, the poverty percentage of the high school is also 48.06%.

To calculate the number of low-income students in the high school, multiply the total school enrollment by the average percentage of poverty for all the elementary feeder schools (3,000 x 48.06%). **This is the number used for allocating Title I funds to the high school.**

When an LEA elects to use the feeder pattern, the LEA--

- Determines the districtwide average of poverty based on all of the schools for which the district is using actual poverty data; and
- Uses this distictwide average to rank all of the attendance areas or schools in the district.

If an LEA serves attendance areas or schools below a 35 percent poverty rate, the district's allocation per low-income child must be based on the actual number of low-income children in the feeder schools, and the projected number in the feeder pattern receiving schools.

Q11. How are funds made available to provide services to eligible private school children?

A. Title I continues the requirement that an LEA provide equitable services to eligible children enrolled in private schools. Because of other changes in Title I, however, some new procedures are necessary. For example, Section 1113(c) of Title I requires an LEA to allocate funds to a participating school attendance area or school on the basis of the <u>total</u> number of children from low-income families, including low-income children attending private schools. Thus, the LEA, in consultation with private school officials, must obtain the best available poverty data on private school children who reside in participating attendance areas. Because private school officials may have access to some sources of poverty information not easily accessible to public school officials, it is very important that public and private school official cooperate in this effort.

LEAs have flexibility in the methods used to collect poverty data on private school children. For example, an LEA could use:

1. Data from the same source for both public and private school children.
2. Poverty data for private school children that are from a different source than the data the LEA uses for public school children as long as the income level for both sources is generally the same.

3. If complete data from the same or comparable poverty sources are not available, extrapolated data on the number of low-income private school children based on actual data from a representative sample of private school children.

4. Correlated data that shows the relation between two known sources of poverty data on public school children, which is then applied to a known source of data on private school children.

5. For 1996-97 **ONLY**, proportional data based on the poverty percentage of each public school attendance area applied to the total number of private school children who reside in that area.

Although funds are allocated on the basis of poor children, private school children eligible to be served are children who reside in a participating public school attendance area and who have educational needs. To provide equitable services to eligible private school children, an LEA must reserve the amounts generated by poor private school children who reside in participating public school attendance areas. In consultation with private school officials, an LEA may choose one, or a combination of, the following options for using the funds reserved for private school children:

- Provide equitable services to eligible children in each private school with the funds generated by children from low-income families who reside in participating public school attendance areas and who attend that private school.

- Combine the funds generated by poor private school children in all participating areas to create a pool of funds from which the LEA provides equitable services to eligible private school children who reside in participating public school attendance areas and are in the greatest educational need of those services. Under this option, the services provided to eligible children in a particular private school are not dependent upon the amount of funds generated by poor children in the school.

EXAMPLE OF RANKING SCHOOLS & ALLOCATING FUNDS IN AN LEA SERVING SCHOOLS BELOW 35 % POVERTY (125 % RULE APPLIES)

Example 1 — Note: Totals may not add due to rounding. — 11-May-95

Per-Pupil 125% Calculation: To determine the amount per child, divide the LEA's allocation ($2,366,381) by its total number of children from low-income families (2,618) to arrive at an amount per poverty child ($903.89). Multiply this amount by 1.25 to determine the minimum per-child payment ($1,129.86) for each attendance area (see table below).

LEA Allocation		Count of Children from Low-Income Families		$ Per Poverty Child				
$2,366,381	Divided By	2,618	=	$903.89	X	125%	=	$1,129.86

Total Title I Allocation for LEA	$2,366,381
Reservations	
Neglected	- $10,000
1% parent involvement	- $23,664
Homeless	- $10,000
Administration, including captial expenses	- $184,909
Remaining amount to be distributed to schools	$2,137,808

ALLOCATION TO ELIGIBLE SCHOOLS

	Total Enrollment	Children from Low-Income Families: Public	Private	Total	Percent Poor	Eligible Schools 1 = Yes 0 = No	Minimum Attendance Area Allocation (No. Poor X $1,129.86)	Attendance Area Allocation (1)	Allocation Generated By Public School Poor Children	Allocation Generated By Private School Poor Children (2)
					LEA AVG.					
LEA Total	14,059	2,550	68	2,618	18.62%	8	$1,875,569	$2,137,808	$2,083,719	$54,089
Attendance Area										
Valley View	696	265	8	273	39.22%	1	$308,452	$351,579	$341,277	$10,303
Violet Hill	870	287	5	292	33.56%	1	$329,919	$376,048	$369,609	$6,439
Elemwood	951	260	15	275	28.92%	1	$310,712	$354,155	$334,837	$19,318
Oakdale MS	276	78	0	78	28.26%	1	$88,129	$100,451	$100,451	$0
Hobson	601	124	6	130	21.63%	1	$146,882	$167,419	$159,692	$7,727
Davis	1,134	227	3	230	20.28%	1	$259,868	$296,202	$292,339	$3,864
Takoma HS	1,080	201	5	206	19.07%	1	$232,751	$265,294	$258,855	$6,439
Berlieth HS	933	176	0	176	18.86%	1	$198,856	$226,659	$226,659	$0
Indian Rock MS	1,695	294	10	304	17.94%	0				
Camp Springs	1,026	178	4	182	17.74%	0				
Taft HS	2,073	237	9	246	11.87%	0				
Bannaker	874	89	2	91	10.41%	0				
White Hill	857	87	1	88	10.27%	0				
Eastern MS	490	47	0	47	9.59%	0				
Roosevelt HS	203	0	0	0	0.00%	0				
Wilson HS	300	0	0	0	0.00%	0				

(1) Example assumes that amount remaining after allocations based on the minimum amount per child would be redistributed proportionately to schools receiving funds.

(2) The LEA must reserve the amount of funds generated by private school children and in consultation with appropriate private school officials may (1) combine those amounts to create a pool of funds from which the LEA provides equitable services to eligible private school children in greatest need of those services; or (2) provide equitable services to eligible children in each private school with the funds generated by children from low-income families who attend that private school.

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EXAMPLE OF RANKING SCHOOLS & ALLOCATING FUNDS IN AN LEA USING THE 35% ELIGIBILITY PROVISION

Example 2 — 11-May-95

Note: Totals may not add due to rounding.

Per-Pupil Calculation (125% Not Required)

Amount LEA determines to allocate per-poverty child (LEA Discretion)	$700.00

Total Title I Allocation for LEA		$4,180,273
Reservations		
Neglected	-	$38,000
1% parent involvement	-	$23,664
Homeless	-	$20,000
Administration, including captial expenses	-	$184,909
Remaining amount to be distributed to schools		$3,913,700

ALLOCATION TO ELIGIBLE SCHOOLS

	Total Enrollment	Children from Low-Income Families: Public	Private	Total	Percent Poor	Eligible Schools 1 = Yes 0 = No	Attendance Area Allocation (No. of Poor X $700)	Allocation Generated By Public School Poor Children	Allocation Generated By Private School Poor Children (1)
					LEA AVG.				
LEA Total	14,059	6,767	100	6,867	48.84%	11	$3,913,700	$3,847,200	$66,500
Attendance Area									
Violet Hill	870	850	20	870	100.00%	1	$609,000	$595,000	$14,000
Oakdale MS	276	202	8	210	76.09%	1	$147,000	$141,400	$5,600
Elemwood	951	591	24	615	64.67%	1	$430,500	$413,700	$16,800
Valley View	696	444	0	444	63.79%	1	$310,800	$310,800	$0
Hobson	601	367	10	377	62.73%	1	$263,900	$256,900	$7,000
Berlieth HS	933	550	5	555	59.49%	1	$388,500	$385,000	$3,500
Davis HS	1,134	646	8	654	57.67%	1	$457,800	$452,200	$5,600
Indian Rock MS	1,695	815	0	815	48.08%	1	$570,500	$570,500	$0
Roosevelt HS	203	95	0	95	46.80%	1	$66,500	$66,500	$0
Takoma HS	1,080	487	6	493	45.65%	1	$345,100	$340,900	$4,200
Camp Springs	1,026	449	14	463	45.13%	1	$324,100	$314,300	$9,800
White Hill	857	293	3	296	34.54%	0			
Bannaker	874	299	2	301	34.44%	0			
Eastern MS	490	142	0	142	28.98%	0			
Taft HS	2,073	509	0	509	24.55%	0			
Wilson HS	300	28	0	28	9.33%	0			

(1) The LEA must reserve the amount of funds generated by private school children and in consultation with appropriate private school officials may (1) combine those amounts to create a pool of funds from which the LEA provides equitable services to eligible private school children in greatest need of those services; or (2) provide equitable services to eligible children in each private school with the funds generated by children from low-income families who attend that private school.

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EXAMPLE OF RANKING SCHOOLS & ALLOCATING FUNDS IN AN LEA SERVING ATTENDANCE AREAS ABOVE THE DISTRICT POVERTY RATE

Example 3 — 11-May-95

Note: Totals may not add due to rounding.

Per-Pupil Calculation (125% Not Required)		
Amount LEA determines to allocate per-poverty child (LEA Discretion)		$573.96
Total Title I Allocation for LEA	$2,366,573	
Reservations		
Neglected	- $10,000	
1% parent involvement	- $23,664	
Homeless	- $10,000	
Administration, including captial expenses	- $184,909	
Remaining amount to be distributed to schools	$2,138,000	

ALLOCATION TO ELIGIBLE SCHOOLS

	Total Enrollment	Children from Low-Income Families: Public	Children from Low-Income Families: Private	Children from Low-Income Families: Total	Percent Poor	Eligible Schools 1 = Yes 0 = No	Attendance Area Allocation (No. of Poor X $573.96)	Allocation Generated By Public School Poor Children	Allocation Generated By Private School Poor Children (2)
					LEA AVG.				
LEA Total	14,059	6,767	100	6,867	48.84%	7	$2,138,000	$2,094,953	$43,047
Attendance Area									
Violet Hill	870	850	20	870	100.00%	1	$499,345	$487,866	$11,479
Oakdale MS	276	202	8	210	76.09%	1	$120,532	$115,940	$4,592
Elemwood	951	591	24	615	64.67%	1	$352,985	$339,210	$13,775
Valley View	696	444	0	444	63.79%	1	$254,838	$254,838	$0
Hobson	601	367	10	377	62.73%	1	$216,383	$210,643	$5,740
Berlieth HS	933	550	5	555	59.49%	1	$318,548	$315,678	$2,870
Davis HS	1,134	646	8	654	57.67%	1	$375,370	$370,778	$4,592
Indian Rock MS	1,695	815	0	815	48.08%	0			
Roosevelt HS	203	95	0	95	46.80%	0			
Takoma HS	1,080	487	6	493	45.65%	0			
Camp Springs	1,026	449	14	463	45.13%	0			
White Hill	857	293	3	296	34.54%	0			
Bannaker	874	299	2	301	34.44%	0			
Eastern MS	490	142	0	142	28.98%	0			
Taft HS	2,073	509	0	509	24.55%	0			
Wilson HS	300	28	0	28	9.33%	0			

(1) The LEA must reserve the amount of funds generated by private school children and in consultation with appropriate private school officials may (1) combine those amounts to create a pool of funds from which the LEA provides equitable services to eligible private school children in greatest need of those services; or (2) provide equitable services to eligible children in each private school with the funds generated by children from low-income families who attend that private school.

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EXAMPLE OF RANKING SCHOOLS & ALLOCATING FUNDS IN AN LEA

USING THE 35% ELIGIBILITY PROVISION AND ALLOWING FOR "BANDS" OF POVERTY WITHIN THE LEA

Example 4 — 11-May-95

Note: Totals may not add due to rounding.

Per-Pupil Calculation (125% Not Required)

Amount LEA determines to allocate per-poverty child:	
Schools with greater than 65% poverty	$950
Schools with greater than 50% poverty, less than 65% poverty	$900
Schools with less than 50% poverty (LEA Discretion)	$850

Total Title I Allocation for LEA	$5,432,969
Reservations	
Neglected	- $20,000
1% parent involvement	- $54,330
Homeless	- $20,000
Administration, including captial expenses	- $346,039
Remaining amount to be distributed to schools	$4,992,600

ALLOCATION TO ELIGIBLE SCHOOLS

	Total Enrollment	Children from Low-Income Families: Public	Private	Total	Percent Poor	Eligible Schools 1 = Yes 0 = No	Attendance Area Allocation (No. Poor X $950, $900, or $850, Depending on Poverty Band)	Allocation Generated By Public School Poor Children	Allocation Generated By Private School Poor Children (1)
					LEA AVG.				
LEA Total	14,059	6,767	100	6,867	48.84%	11	$4,992,600	$4,906,700	$85,900
Attendance Area									
Violet Hill	870	850	20	870	100.00%	1	$826,500	$807,500	$19,000
Oakdale MS	276	202	8	210	76.09%	1	$199,500	$191,900	$7,600
Elemwood	951	591	24	615	64.67%	1	$553,500	$531,900	$21,600
Valley View	696	444	0	444	63.79%	1	$399,600	$399,600	$0
Hobson	601	367	10	377	62.73%	1	$339,300	$330,300	$9,000
Berlieth HS	933	550	5	555	59.49%	1	$499,500	$495,000	$4,500
Davis HS	1,134	646	8	654	57.67%	1	$588,600	$581,400	$7,200
Indian Rock MS	1,695	815	0	815	48.08%	1	$692,750	$692,750	$0
Roosevelt HS	203	95	0	95	46.80%	1	$80,750	$80,750	$0
Takoma HS	1,080	487	6	493	45.65%	1	$419,050	$413,950	$5,100
Camp Springs	1,026	449	14	463	45.13%	1	$393,550	$381,650	$11,900
White Hill	857	293	3	296	34.54%	0			
Bannaker	874	299	2	301	34.44%	0			
Eastern MS	490	142	0	142	28.98%	0			
Taft HS	2,073	509	0	509	24.55%	0			
Wilson HS	300	28	0	28	9.33%	0			

(1) The LEA must reserve the amount of funds generated by private school children and in consultation with appropriate private school officials may (1) combine those amounts to create a pool of funds from which the LEA provides equitable services to eligible private school children in greatest need of those services; or (2) provide equitable services to eligible children in each private school with the funds generated by children from low-income families who attend that private school.

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federal register

Tuesday
October 10, 1995

Part IV

Department of Education

Part A of Title I of the Elementary and Secondary Education Act of 1965; Notice

DEPARTMENT OF EDUCATION

Part A of Title I of the Elementary and Secondary Education Act of 1965

AGENCY: Department of Education.

ACTION: Notice of guidance for requesting waivers under part A of title I of the Elementary and Secondary Education Act of 1965 for schools under State-ordered or court-ordered desegregation plans.

SUMMARY: In this notice, the Assistant Secretary for Elementary and Secondary Education provides guidance to local educational agencies (LEAs) with schools under a court-ordered or State-ordered desegregation plan or a plan that continues to be implemented in accordance with a court-ordered or State-ordered desegregation plan. This guidance is intended to assist the Secretary in implementing section 1113(a)(7) of title I of the Elementary and Secondary Education Act of 1965 (Title I). The information obtained enables the Secretary to waive certain requirements of title I for eligible LEAs.

ADDRESSES: Requests for waivers should be submitted, in writing, to the Honorable Richard W. Riley, Secretary of Education, U.S. Department of Education, 600 Independence Avenue SW., room 6300, Attn: Waiver Action Board, Washington, D.C. 20202–0125.

FOR FURTHER INFORMATION CONTACT: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Portals Building, room 4400), Washington, D.C. 20202–6132. Telephone (202) 260–0826. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: One of the overarching principles of part A of title I of the Elementary and Secondary Education Act of 1965, as recently amended by the Improving America's Schools Act, is to target resources on those elementary and secondary schools with the highest concentrations of children from low-income families. As a result, section 1113(a) of title I requires an LEA to identify its eligible school attendance areas and schools, rank those areas and schools according to concentrations of poverty, and serve those areas and schools in rank order. An eligible area or school is one in which the percentage of children from low-income families is above the districtwide poverty average or 35 percent. Under section 1113(c)(1) of title I, the LEA must allocate funds to participating areas or schools in rank order on the basis of the total number of children from low-income families in each area or school.

Section 1113(a)(7) of title I recognizes that a State-ordered or court-ordered school desegregation plan or a plan that continues to be implemented in accordance with such a desegregation plan may alter the concentrations of poverty in schools governed by the plan. To accommodate this situation, if the number of children from low-income families in a school under a desegregation plan is at least 25 percent of the school's total enrollment, the LEA may request the Secretary to waive the eligibility and allocation requirements in section 1113(a) and (c) so that the LEA may identify as eligible and serve the school under title I. The Secretary may grant the LEA's request if the Secretary determines that approval of the request would further the purposes of part A of title I.

If an LEA desires a waiver of the requirements in either section 1113(a) or (c) for a school under a State-ordered or court-ordered school desegregation plan or a plan that continues to be implemented in accordance with such a desegregation plan, the LEA must submit a written request to the Secretary. The Secretary encourages the LEA, in preparing its request, to seek comment from interested parties, including the State educational agency and private school officials, if appropriate, and to include the following information in its request so that the Secretary may determine whether the request meets the statutory criteria in section 1113(a)(7):

- The school or schools for which the waiver is requested.
- A copy of the LEA's ranking of school attendance areas and schools, indicating which schools the LEA would fund if the waiver is granted and which schools the LEA would fund absent a waiver.
- A brief explanation of the LEA's desegregation plan (indicating the date of the plan and whether it is court-ordered, State-ordered, or continues to be implemented in accordance with a court- or State-ordered plan), how the desegregation plan affects the schools for which the waiver is requested (including, if available, the plan's impact on the concentrations of poverty in those schools), and how the plan would be furthered by the waiver.
- An explanation of the educational justification supporting the waiver request, including measurable educational improvement goals and expected outcomes for affected students and the methods to be used to measure progress in meeting those goals and outcomes.
- If the LEA proposes to skip eligible schools in order to serve schools under a waiver, an explanation of why it would further the purposes of the title I program to serve the schools for which the waiver is requested rather than the schools that would be skipped, including a description of the services to be provided and the number of children who would benefit.
- If the LEA is requesting a waiver of section 1113(c), the per-pupil amount the LEA intends to allocate to the schools for which the waiver is requested and the per-pupil amount(s) the LEA intends to allocate to its other schools.
- An explanation of how the LEA will continue to ensure the equitable participation of eligible private school children if the waiver is granted, including a description of how it consulted with private school officials in the development of the waiver request.

The Secretary may grant the LEA's request if the Secretary determines that approval of the request would further the purposes of part A of title I.

(Approved by the Office of Management and Budget under control number 1810-0586)

(Catalog of Federal Domestic Assistance Number: 84.010, Improving Programs Operated by Local Educational Agencies)

Dated: September 27, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95–24963 Filed 10–6–95; 8:45 am]

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UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-6132

March 18, 1996

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

SUBJECT: Use of Free and Reduced Price Lunch Data for Title I Purposes

As many of you are aware, we have been working with officials at the U.S. Department of Agriculture (USDA) regarding the use of free and reduced price lunch data for Title I purposes.

Section 108 of Public Law 103-448, the Healthy Meals for Healthy Americans Act of 1994, authorizes the release of student free and reduced school meal eligibility status for Federal and State education programs. Because of the sensitivity of this information and the intent to publish regulations implementing this section, USDA issued a memorandum several months ago stating that the use of such information for Federal and State education programs would not be permissible until such regulations were published. However, since that memorandum was issued, our Department has worked closely with USDA to explain the need for such information for the Title I program. As a result of our discussions, USDA issued the enclosed memorandum that authorizes the release of free and reduced school eligibility information for Title I purposes.

Please feel free to contact me should you have any further questions on this matter.

Mary Jean LeTendre
Director
Compensatory Education Programs

Enclosure

cc: State Title I Coordinators

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

FEB 2 3 1996

SUBJECT: Cooperation with Education Officials - Title I

TO: Regional Directors
Special Nutrition Programs
All Regions

Section 108 of Public Law 103-448 authorizes the release of student free and reduced price school meal eligibility status for Federal and State education programs. Although we intend to promulgate regulations on the provision, we have not been able to publish the provision on a timely basis. Consequently, we are authorizing school officials, through this memorandum to cooperate with education officials collecting data for Title I purposes.

Under current policy, school food service officials may release aggregate information about the number of children eligible for free and reduced price meals. Additionally, we are now authorizing school food service officials to disclose the names of individual children who are eligible for free or reduced price meals, to officials collecting data for Title I allocation and evaluation purposes. While we are authorizing the release of this information, the final decision rests with local officials.

For allocation of funds under Title I, public schools are usually annually ranked according to the number of children eligible for free and reduced price school meals as an annual indicator of the socioeconomic status of the school's attendance area. While Title I funds are not dispersed to private schools, children from the attendance area who attend private schools may still be included in the total count of needy children living in the attendance area. Therefore,private schools that participate in the school nutrition programs may release the addresses, grade levels and eligibility status of children determined eligible for free and reduced price school meals to Title I officials. It should be noted that private schools would not need to release the names of free and reduced price eligible students, since addresses are sufficient to determine attendance areas.

While in some instances aggregate release of free and reduced price school meal information is sufficient, food service

officials may be asked to provide the names and eligibility status of individual children for Title I evaluation purposes. Consequently, school food service officials may cooperate with education officials for evaluation of Title I services. The Department of Education has been advised of this policy in the attached letter to Mary Jean LeTendre, Director of Compensatory Education Programs for that Department.

Please provide your States with copies of this memorandum and attached letter. You may contact Charles Heise or Barbara Semper at (703) 305-2968 with any questions.

SIGNED

ALBERTA C. FROST
Director
Child Nutrition Division

Attachment